

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia (Annotated), as amended, by creating a new chapter 6 to provide for availability, access, and exchange of information for taxation purposes, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. The Congress finds that illegal tax evasion is a
2 serious and global problem, and the effective international
3 measures to exchange information for tax purposes is necessary to
4 prevent tax fraud, money laundering, and financing of terrorism.
5 It is hereby declared to be the policy of the Federated States of
6 Micronesia to implement international standards for transparency
7 and exchange of tax information, and it is the intent of Congress
8 that this chapter be implemented in accordance with the policy.

9 Section 2. Title 54 of the Code of the Federated States of
10 Micronesia (Annotated), as amended, is hereby further amended by
11 creating a new chapter 6 entitled: "Access and Exchange of
12 Information."

13 Section 3. Title 54 of the Code of the Federated States of
14 Micronesia (Annotated), as amended, is hereby further amended by
15 inserting a new section 601 of chapter 6, to read as follows:

16 "Section 601. Short title. This chapter may be cited
17 as the 'Exchange of Tax Information Act of 2016'."

1 Section 4. Title 54 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended by
3 inserting a new section 602 of chapter 6, to read as follows:

4 "Section 602. Definitions.

5 Wherever used in this chapter, except where otherwise
6 specified, unless the subject matter, context, or sense
7 otherwise requires:

8 (1) "Business" includes any profession, trade,
9 manufacture, or other undertaking carried on for
10 pecuniary profit in the Federated States of Micronesia,
11 but not including employment.

12 (2) "Customs and Tax Administration" means the
13 division in the Department of Finance that is charged
14 with administration of national tax laws. It is headed
15 by an assistant secretary.

16 (3) 'Entity' means a company, corporation,
17 partnership, unincorporated association or other
18 business entity, trust, or estate that:

19 (a) is registered in the Federated States of
20 Micronesia;

21 (b) has a permanent establishment in the
22 Federated States of Micronesia;

23 (c) owns assets in the Federated States of
24 Micronesia; or

25 (d) in the case of a trust, has a trustee

1 resident in the Federated States of Micronesia.

2 (4) 'Secretary' means the Secretary of the Department
3 of Finance and Administration."

4 Section 5. Title 54 of the Code of the Federated States of
5 Micronesia (Annotated), as amended, is hereby further amended by
6 inserting a new section 603 of chapter 6, to read as follows:

7 "Section 603. Availability of Information.

8 (1) Every business or entity, on or before January 31
9 each year, shall provide complete ownership and identity
10 information to the Customs and Tax Administration. The
11 information required will be set out in a form approved
12 by the Secretary pursuant to this section.

13 (2) Any corporation that has provided ownership
14 information to the FSM National Registrar of
15 Corporations within the previous year may file for an
16 exemption from the requirements of subsection (1) of
17 this section. The exemption request shall be on a form
18 approved by the Secretary and shall contain such
19 information as the Secretary may require.

20 (3) A business or entity may request an extension of
21 time to file the information required by this section of
22 up to 90 days."

23 Section 6. Title 54 of the Code of the Federated States of
24 Micronesia (Annotated), as amended, is hereby further amended by
25 inserting a new section 604 of chapter 6, to read as follows:

1 "Section 604. Accounting Records.

2 (1) Every business or entity shall maintain
3 accounting records for a period of six years that:

4 (a) Correctly explain all transactions;

5 (b) Enable the financial position of the
6 business or entity to be determined with reasonable
7 accuracy; and

8 (c) Allow financial statements to be prepared.

9 (2) Every business or entity shall maintain
10 underlying documents of all transactions such as
11 invoices and contracts for a period of six years.

12 (3) The Secretary may by regulation provide for
13 simplified accounting record retention requirements for
14 small businesses and entities. Any regulations issued
15 pursuant to this subsection shall comply with
16 international standards for tax transparency."

17 Section 7. Title 54 of the Code of the Federated States of
18 Micronesia (Annotated), as amended, is hereby further amended by
19 inserting a new section 605 of chapter 6, to read as follows:

20 "Section 605. Exchange of Information.

21 (1) Subject to ratification by Congress, the
22 Executive branch may negotiate and execute treaty with
23 another country on the exchange of tax information. Upon
24 entry into force of such treaty, the Secretary may enter
25 into agreement or agreements with foreign counterpart to

1 implement the terms of treaty.

2 (2) Any exchange of information concluded with other
3 nation under subsection (1) or subsection (2) of this
4 Section shall provide for reasonable safeguards against
5 unauthorized or improper disclosure of confidential
6 information.

7 (3) Any exchange of information pursuant to an
8 agreement entered into under subsection (1) or
9 subsection (2) of this section shall be exempt from any
10 confidentiality or secrecy provisions provided for by
11 law, but only to the extent permitted under that
12 agreement and applicable law."

13 Section 8. Title 54 of the Code of the Federated States of
14 Micronesia (Annotated), as amended, is hereby further amended by
15 inserting a new section 606 of chapter 6, to read as follows:

16 "Section 606. Power to Obtain Tax Information.

17 (1) The Secretary shall have authority to use any
18 statutory powers to the extent granted in this title to
19 obtain access to tax information for the purpose of
20 complying with a request for exchange of tax
21 information, including:

22 (a) powers to summon persons to provide
23 testimony or provide documents under section 157(1) of
24 this title;

25 (b) powers to summon third parties to provide

1 testimony or provide documents under section 157(2) of
2 this title;

3 (c) powers of access to records under section
4 151 of this title; and

5 (d) powers of and seizure as may be provided for
6 under applicable FSM law.

7 (2) Any substantive restrictions or procedural
8 requirements associated with the exercise of statutory
9 access powers for a domestic tax purpose shall apply in
10 a like manner when exercising such powers for the
11 purpose of complying with a request for exchange of tax
12 information.

13 (3) The powers provided by this section shall be
14 exercised subject to such privileges as may be
15 recognized by the FSM Supreme Court, but shall not be
16 subject to contractual duties of confidentiality, and
17 shall not be subject to professional ethical
18 requirements not recognized by the law of privilege."

19 Section 9. Title 54 of the Code of the Federated States of
20 Micronesia (Annotated), as amended, is hereby further amended by
21 inserting a new section 607 of chapter 6, to read as follows:

22 "Section 607. Civil Penalty.

23 (1) If any business or entity fails to provide
24 ownership and identity information as required under
25 this chapter on or before the date set, unless prior to

1 that date such taxpayer applied for and received an
2 extension for reasonable cause, the business or entity
3 shall pay a penalty of \$100 per month until such
4 information is provided.”

5 (2) If any business or entity fails to provide
6 accounting records or banking or other information as
7 required under chapter, then the business or entity
8 shall pay a penalty of \$500 per month until such
9 information is provided.

10 (3) If any person subject to a third party request
11 for information or testimony as required by this
12 chapter, then such person shall pay a penalty of \$500
13 per month until such information is provided. As used
14 in this subsection, a person includes a government,
15 corporation, or other legal entity.”

16 Section 10. Title 54 of the Code of the Federated States of
17 Micronesia (Annotated), as amended, is hereby further amended by
18 inserting a new section 608 of chapter 6, to read as follows:

19 “Section 608. Criminal Penalty.
20 Any person, business or entity who willfully violates
21 any of the provisions of this chapter, or any license,
22 rule, or regulation issued thereunder, shall upon
23 conviction be imprisoned for a period of not more than
24 one year, or fined not more than \$50,000, or both.”

25 Section 11. Title 54 of the Code of the Federated States of

1 Micronesia (Annotated), as amended, is hereby further amended by
2 inserting a new section 609 of chapter 6, to read as follows:

3 "Section 609. With the approval of the President, the
4 Secretary may adopt new regulation or amend, or rescind
5 existing regulations prescribing rules for the efficient
6 and convenient implementation and enforcement, and such
7 regulations shall have the force and effect of law if
8 they are not in conflict with the express provisions of
9 this chapter or other laws of the FSM.

10 Section 12. This act shall become law upon approval by the
11 President of the Federated States of Micronesia or upon its
12 becoming law without such approval.

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14 Date: 12/14/16

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

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